

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES T. SULLIVAN, etc.,)	
)	No. 06 C 5950
Plaintiff,)	
)	Judge Ruben Castillo
v.)	
)	Magistrate Judge
J.W. DITTER PLUMBING, INC.,)	Ashman
)	
)	
Defendant.)	

MOTION FOR ENTRY OF JUDGMENT

NOW COMES Plaintiff, JAMES T. SULLIVAN, etc., by his attorneys, DOUGLAS A. LINDSAY, JOHN W. LOSEMAN, and LISA M. SIMIONI, with LEWIS, OVERBECK & FURMAN, LLP, of counsel, and, pursuant to Orders entered November 6, 2006, March 27, 2007, and September 25, 2007, moves the Court to enter Judgment in favor of Plaintiff and against Defendant, J.W. DITTER PLUMBING, INC., in the amount of \$16,180.06. In support hereof, Plaintiff states:

1. On November 1, 2006, Plaintiff filed his Complaint, pursuant to ERISA, 29 U.S.C. §§ 1132 and 1145, and LMRA, 29 U.S.C. § 185, and the Collective Bargaining Agreements ("CBA"), to obtain an audit and recover all unpaid contributions, interest, liquidated damages, professional fees, and court costs owed to Funds.

2. On November 6, 2006, the Court administratively dismissed this matter and retained jurisdiction to enter a final judgment. A true and correct copy of the Court's Order is attached hereto as Exhibit A.

3. On March 27, 2007, the Court found Defendant in default. A true and correct copy of the Court's Order is attached hereto as Exhibit B.

4. On September 25, 2007, the Court set this matter for prove-up hearing for October 25, 2007. A true and correct copy of the Court's Order is attached hereto as Exhibit C.

5. Plaintiff's certified public accounting firm, D M Siegel, Ltd, conducted an audit of Defendant's books and records and issued a Compliance Report ("Audit"). The Audit reveals that for the period July 1, 2001, through December 31, 2005, Defendant failed to report and pay amounts due under the CBA on 22.00 hours of work. A true and correct copy of the Audit is attached as Exhibit D.

6. As a result of Defendant's obstruction of the audit process, Plaintiff incurred \$10,550.77 in attorneys' fees and costs and \$5,100.00 in audit costs, which Plaintiff also seeks as mandatory, reasonable fees and costs pursuant to ERISA, 29 U.S.C. §1132(g)(2)(D) and (E). See Affidavits of Douglas A. Lindsay and Dennis M. Siegel, attached hereto as Exhibits E and F, respectively.

7. Based on the Audit and ERISA, 29 U.S.C. §1132, Plaintiff's total damages are:

\$221.32 -	Unpaid contributions per ERISA, 29 U.S.C. §1132(g)(2)(A) and §9.8 of CBA
\$145.13 -	Interest on unpaid contributions per ERISA, 29 U.S.C., §1132(g)(2)(B) and §9.8 of CBA, which includes \$135.17 set forth in Audit + \$3.32/month for the period 8/15/07 to 10/25/07
\$145.13 -	Statutory double interest per ERISA, 29 U.S.C. §1132(g)(2)(C)
\$17.71 -	Liquidated damages per §9.8 of CBA

CERTIFICATE OF SERVICE

Lisa M. Simioni hereby certifies that service of a copy of the foregoing Motion for Entry of Judgment was made on the following person(s):

David R. Herzog
email: drhlaw@mindspring.com
Herzog & Schwartz, P.C.
77 West Washington Street, Suite 1717
Chicago, IL 60602

via the electronic filing (ECF) system of the United States District Court for the Northern District of Illinois, pursuant to electronic filing made this 1st day of October, 2007.

s/ Lisa M. Simioni